

Amendment and Response

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Serial No.: 10/682,597

Confirmation No.: 9772

Filed: 9 October 2003

For: MULTILAYER PROCESSING DEVICES AND METHODS

Remarks

The Office Action of 5 September 2007 has been received and reviewed. Claims 1 and 14 have been amended, claims 31-39 have been canceled, and new claims 40-48 are presented. As a result, claims 1-30 and 40-48 are pending upon entry of this response. Reconsideration and withdrawal of the rejections of claims 1-30 are respectfully requested as discussed below.

New Claims 40-48

New claims 40-48 are presented to provide Applicants with more comprehensive protection for the present invention. Support for new claims 40-48 can be found in the application as filed at, e.g., page 15, line 28 to p. 17, line 17 and FIGS. 5 & 6.

Claim Amendments

Claims 1 and 14 have been amended to recite "wherein the cover sheet and the control layer are coextensive." Support for these claim amendments may be found in the application as filed at, e.g., FIG. 3.

The 35 U.S.C. § 102 Rejections**35 U.S.C. § 102(e) Rejection**

Claims 1-30 were rejected under 35 U.S.C. § 102(e) as being anticipated by Harms et al. (U.S. Patent No. 6,814,935), Bedingham et al. (U.S. Patent No. 6,627,159), and Bedingham et al. (WO 02/01180) (hereinafter, these three pieces of art will be referred to as "cited 102(e) art"). Applicants respectfully traverse this rejection.

At the outset, Applicants do not admit that the cited 102(e) art qualify as prior art under 35 U.S.C. § 102(e), and Applicants respectfully reserve the right to swear behind these documents at a later date.

For a claim to be anticipated under 35 U.S.C. § 102, each and every element of the claim must be found in a single prior art reference (M.P.E.P. § 2131). Applicants respectfully submit

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each of the cited 102(e) art fails to teach each and every element of claims 1-30.

For example, nothing is identified within the disclosure of the 102(e) art that discloses "a plurality of process chamber structures formed in the control layer" as recited in independent claims 1 and 14, or "process chamber structures compris[ing] a void formed through the first major surface and the second major surface of the control layer" as recited in independent claim 13.

The Office Action equates sides 18 and 19 disclosed in the cited 102(e) art as being equivalent to the claimed transmissive and control layers. *See Office Action*, 5 Sept. 2007, page 2. However, as seen in Figures 4-6 of Harms et al. (and the equivalent figures in the other cited 102(e) art), a plurality of process chamber structures are not formed in either of layer 18 or layer 19 as would be required to anticipate claims 1 and 14. Nor is a void formed through the first major surface and the second major surface of either of layer 18 or layer 19 as would be required to anticipate claim 13.

For at least these reasons, Applicants submit that independent claims 1 and 13-14 are not anticipated by the cited 102(e) art. Furthermore, because claims 2-12 and 15-30 are either directly or ultimately dependent on either claim 1 or 13-14, claims 2-12 and 15-30 are also novel in view of the cited 102(e) art. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

35 U.S.C. § 102(b) Rejection

Claims 1-30 were rejected under 35 U.S.C. § 102(b) as being anticipated by Szlosek (U.S. Patent No. 6,033,605) and Wilding et al. (U.S. Patent No. 5,726,026). Applicants respectfully traverse this rejection.

For a claim to be anticipated under 35 U.S.C. § 102, each and every element of the claim must be found in a single prior art reference (M.P.E.P. § 2131).

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Szlosek

Applicants respectfully submit that Szlosek fails to teach each and every element of claims 1-30 as required for an anticipation rejection.

For example, nothing is identified within the disclosure of Szlosek that describes "a conduit in the sample processing device, wherein each process chamber of the plurality of process chambers is in fluid communication with the conduit" as recited in claims 1 and 14 or "a conduit formed between the cover sheet and the control layer in the sample processing device, wherein each process chamber of the plurality of process chambers is in fluid communication with the conduit" as recited in claim 13.

In fact, the Office Action does not appear to equate any structure within Szlosek to the claimed conduit nor does any structure disclosed within Szlosek appear to even closely equate to a conduit as claimed. If this rejection is maintained, clarification is respectfully requested.

For at least these reasons, Applicants submit that independent claims 1 and 13-14 are not anticipated by Szlosek. Furthermore, because claims 2-12 and 15-30 are either directly or ultimately dependent on either claim 1 or 13-14, claims 2-12 and 15-30 are also novel in view of Szlosek. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

Wilding et al.

At the outset, it is not clear from the Office Action which structures of Wilding et al. are being equated to the claimed transmission layer, control layer, and cover sheet. The Office Action merely recites that "Wilding [sic] teach a device and method of manufacturing a device(10) comprising a cover(29), a bottom substrate(11), interconnecting conduits(12a,b and 24a,b) [sic] and separation zone(22) and that "Figures 6a,b show at least [sic] two layers below the chambers which have been read on the claimed transmissive and control layers." *Office Action*, 9 Sept. 2007, page 3. If this is rejection is maintained, clarification is respectfully requested.

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However, in an effort to respond to this Office Action, Applicants will assume the following: the Office Action equates the "cover(29)" to the claimed transparent layer, and the Office Action equates the "bottom substrate(11)" to the claimed control layer. Applicants are, however, unable to identify a structure in Wilding et al. that the Office Action identifies as equating to the claimed cover sheet.

As a result, Applicants respectfully submit that Wilding et al. fails to teach each and every element of claims 1-30 as required for an anticipation rejection.

For example, nothing is identified within the disclosure of Wilding et al. that discloses a cover sheet attached to the second major surface of the control layer recited in claims 1 and 13-14. FIG. 6a of Wilding et al. shows a sample processing device 10 adjacent to an analytical device 112 both nested in appliance 50. *See Wilding et al.*, FIG. 6a. FIG. 6b of Wilding shows an analytical device 110' stacked on top of sample processing device 10' nested in appliance 70. *See Wilding et al.*, FIG. 6b. Devices 10, 10' are constructed of two layers: bottom substrate 11 (assumed to be equated to the claimed control layer) and transparent cover 29 (assumed to be equated to the claimed transmission layer). *See Wilding et al.*, FIG. 1. Neither FIG. 6a nor FIG. 6b show a cover sheet attached to the substrate 11 (which the Office Action may be equating to the claimed control layer). Instead, FIG. 6a and FIG. 6b merely disclose a device 10, 10' that contains two layers attached to each other (bottom substrate 11 and transparent cover 29) held within an appliance 50, 70. *See Wilding et al.*, col. 11, lines 26-29 ("Appliance 50 has a nesting site 52 for holding sample preparation device 10 and analytical device 112").

Further, for example, nothing is identified within the disclosure of Wilding et al. that teaches a cover sheet and a control layer that are coextensive as recited in claims 1 and 14. As discussed above, it is unclear to the Applicants which structure disclosed in Wilding et al. that the Office Action equates to the claimed cover sheet. However, if it is asserted that the appliance 50, 70 is equivalent to the claimed cover sheet, Applicants submit that the appliance 50, 70 and the bottom substrate 11 are not coextensive as would be required to anticipate claims 1 and 14.

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Still further, for example, nothing is identified within the disclosure of Wilding et al. that describes a conduit formed between the cover sheet and the control layer as recited in claim 13. It is asserted that "Wilding teach a device and method of manufacturing a device(10) comprising . . . interconnecting conduits(12a,b and 24a,b) [sic]." *Office Action*, 5 Sept. 2007, page 3. Interconnecting conduits 12a, 12b, 24a, and 24b are, however, not formed between the cover sheet and the control layer as recited in claim 13. Instead, interconnecting conduits 12a, 12b, 24a, and 24b appear to be formed between the transparent cover 29 and the bottom substrate 11 (which the Office Action may equate to the claimed transmission layer and control layer, respectively). *See Wilding et al.*, Figure 1.

For at least these reasons, Applicants submit that independent claims 1 and 13-14 are not anticipated by Wilding et al. Furthermore, because claims 2-12 and 15-30 are either directly or ultimately dependent on either claim 1 or 13-14, claims 2-12 and 15-30 are also novel in view of Wilding et al. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

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Summary

It is respectfully submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

Mueeting, Raasch & Gebhardt, P.A.


P.O. Box 581415

Minneapolis, MN 55458-1415

Phone: (612) 305-1220

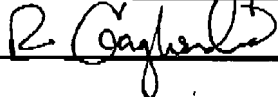
Facsimile: (612) 305-1228

4 DEC. 2007
Date

By: 
Kevin W. Raasch
Reg. No. 35,651
Direct Dial (612) 305-1218

CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that the Transmittal Letter and the paper(s), as described hereinabove, are being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 4th day of December, 2007, at 12:36 p.m. (Central Time).

By:  Name: Rachel Ogliardi